

MINUTES
KITTY HAWK TOWN COUNCIL
March 7, 2016
Kitty Hawk Town Hall, 6 PM

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Recognitions and Presentations:
 - Introduction of Police Sergeant Brandon Henderson
 - Mary Jane Slesinski, League of Women Voters Co-President/Presentation of the 2016 Citizens Guide
 - Jenny Ash, Outer Banks Sporting Events Race Director/Overview of 2016 Plans and Economic Impact from 2015
 - Superintendent Dave Alberg, *Monitor* National Marine Sanctuary
5. Public Comment
6. Consent Agenda
 - a.) Approval of February 1, 2016 Council Minutes
 - b.) Resolution Approving the Kitty Hawk Fire District Boundaries
 - c.) Severe Weather Preparedness & Flood Safety Week Resolution
 - d.) iWorQ Permit Management
 - e.) Government Education Access Channels 2016-17 Fiscal Year Budget
 - f.) Amendment to the Town Code. Chapter 4-Animals
7. Items Removed from the Consent Agenda
8. Public Hearings
 - a.) Conditional Use Permit. Application for a Conditional Use Permit to allow a fitness center at 500 Sand Dune Drive, Unit E.
9. Planning
 - a.) Atlantic Dentistry. Application is for site modifications to the Sweet Frog's and Atlantic Dentistry sites at 3700 and 3704 North Croatan Highway.
 - b.) Call for Public Hearing. Conditional Use Permit application to allow an indoor bounce house at 3809 North Croatan Highway. The public hearing is scheduled for April 4, 2016.
 - c.) Call for Public Hearing. Text amendment to modify the zoning ordinance with regards to placement of mobile homes. The public hearing is scheduled for April 4, 2016.
10. New Business
 - a.) Amendment to the Town Code. Chapter 18-Miscellaneous Provisions and Offenses. Section 18-2-Noise Control
 - b.) Amendment to the Town Code. Chapter 18-Miscellaneous Provisions and Offenses. Add Section 18-20-Open Air Camping
 - c.) Amendment to the Town Code. Chapter 20-Motor Vehicles and Traffic. Sections 20-51, 20-52, 20-53, 20-54, 20-55, 20-56, 20-57, 20-58 and 20-59
 - d.) Amendment to the Town Fee Schedule
11. Reports or General Comments from Town Manager

Kitty Hawk Town Council Minutes: March 7, 2016

Page 2

12. Reports or General Comments from Town Attorney
 - a.) Update on Easements for Beach Nourishment
13. Reports or General Comments from Town Council
14. Public Comment
15. Adjourn

COUNCILMEMBERS PRESENT:

Mayor Gary Perry, Mayor Pro Tem Craig Garriss, Councilwoman Lynne McClean and Councilman Jeff Pruitt

COUNCILMEMBERS ABSENT: Councilman Ervin Bateman

STAFF MEMBERS PRESENT:

Town Manager Andy Stewart, Town Clerk Lynn Morris, Town Attorney Steve Michael, Management Assistant Melody Clopton, Town Planner Rob Testerman, Police Chief Joel Johnson, and Public Works Director Willie Midgett

1. CALL TO ORDER

Mayor Perry called this meeting to order at 6:00 p.m. and asked everyone to join in a moment of silence and the Pledge of Allegiance to the flag.

2. MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE

Following a moment of silence and the Pledge of Allegiance Mayor Perry thanked everyone for attending the meeting.

3. APPROVAL OF AGENDA

MPT Garriss “so moved” to approve the agenda. Councilwoman McClean provided a second and it passed unanimously, 4-0.

Mayor Perry informed everyone that Councilman Bateman is out of Town and it is an excused absence.

Kitty Hawk Town Council Minutes: March 7, 2016
Page 3

4. RECOGNITIONS AND PRESENTATIONS

a.) Police Chief Johnson introduced Sergeant Brandon Henderson.

b.) Co-President of the League of Women Voters, Mary Jane Slesinski, presented the 2016 *Citizens Guide* and thanked council for their contribution to its printing.

c.) Jenny Ash, Outer Banks Sporting Events Race Director and Lynda Wood, OBSE Executive Director, presented an overview of the upcoming races and events and the economic impact the events had for Kitty Hawk in 2015, as well as the last 10 years. They also presented council with two signed, framed prints by local artist Peggy Saporito.

d.) Superintendent Dave Alberg, *Monitor National Marine Sanctuary*: *Good evening. I thank you for the opportunity to speak to you this evening. I spoke to you last summer and it was our first opportunity to give you some information about what our program does. A few things have happened since the summer and I wanted to brief you and give you an opportunity to ask any questions.*

As I mentioned last summer, the Monitor Sanctuary, for 40 years, has been sort of quietly off the post doing work to preserve the history and the story of the USS Monitor. We have done a lot of things in terms of supporting the community through partnerships with museums and aquaria and we have put together close to \$3 million dollars of support that has come back to Dare County between the Graveyard of the Atlantic Museum, the Aquarium at Roanoke Island, a series of maritime heritage trails and other activities all in an effort to sort of bring the Monitor out of the water and help share that history with the community. In Newport News we continue to work on the conservation of the ship wreck and once those artifacts are done many of them will come back to North Carolina.

Over the last 8 years, as I mentioned last summer, we have conducted research work on World War II. Many of the shipwrecks that lie off the coast were involved in World War II and the Battle of the Atlantic. We have drawn the conclusion, as have many other historians, that this area is unique in the world and certainly unique in the United States in terms of its history relative to World War II. The number of shipwreck losses during World War II, and especially looking at the first 6 months of 1942, there were approximately 1,600 men lost off the coast of Cape Hatteras and 1,100 of them were merchant seamen who had gone into the war. Unfortunately it had the highest fatality rate of any of the armed services. You had a higher chance of being lost in the Merchant Marine than you did at Guadalcanal, with the Marine Corp or with the Army Air Corp. This area off the coast of Kitty Hawk really represents the only World War II battle field the United States has beyond Pearl Harbor. This is really where the war came home. For the last 8 years NOAA has been studying these shipwrecks, documenting them and trying to ask the question of what can we do to help enhance this history in a way that is of benefit to the community and a benefit to the memory of these men who were lost.

Kitty Hawk Town Council Minutes: March 7, 2016

Page 4

On January 8th of this year NOAA issued in the Federal Register a Notice of Intent to begin looking at the boundary expansion of the Monitor Marine Sanctuary. We are currently in the scoping period through March 18th. We have completed a series of five public meetings. One in Raleigh, Beaufort, Nags Head, Hatteras and then one in Washington DC. It is to solicit public comment and comment from communities and partners about what ... before we go back and begin to develop a proposal, a NOAA recommendation, we wanted to hear from the communities. We have about two weeks left in this public scoping period and we have received about 100 comments so far. There has been a lot of misinformation and a lot of concern about the impacts this may have to fishing and I wanted to get before you and tell you that no one within NOAA, and none of our advisory councils that have been working on this, has recommended anything that would have any impact on fishing. The proposal on the table is how can we look at this history and expand our education and outreach efforts. The real concern is the removal of artifacts off of these war graves and we believe that can be done with no impact to fishing and no impact to the dive community and in a way that is a very positive impact to communities like the Town of Kitty Hawk and others along the coast.

We will accept public comment from municipalities and others beyond the March 18th deadline. And I would like to suggest if there is a member of the council or a member of the Town that would have the time to come and spend a day with us in Newport News, or have my team come back here and provide information about this proposal, it will help you make an informed decision about what the impact of this might be to a community. I would really welcome that.

Perry: *I think maybe the best way to handle that would be to make sure you leave a contact point and I will ask council and if somebody has the time to actually go up and visit. One of the concerns that I am sure you are hearing, and I heard you mention it, was an expansion. It is kind of the creep that always occurs in federal government. It looks good up front and then it gets beyond anything anybody imagined. ~~In this part of our country we have seen a lot of people and developers give land to conservation groups only to have them turn around and sell it for whatever reason. I don't know about the rest of council, and I'm going to ask them in just a minute how they feel about an expansion, but we do not really know how it will be checked in the future.~~*

Education is great. As a child I listened to my parents, who lived here through the war talk about flaming ships off shore. I knew some of the Coast Guardsmen or Lifesavers they were called then. I grew up with them and listened to their stories about going out to try to save merchant sailors. They were bobbing around in burning oil and things of that nature. It was not a pretty sight. And you are right, there were more people lost in that conflict because there was nobody to help them. They were just sitting ducks. An Amoco tanker full of gasoline, it doesn't take but one torpedo and it was all over. I think we all understand the nature of the beast you're talking about but we also understand the concern about expansion of a government that just seems never to stop wanting more.

Do we at this point as a council want to endorse an expansion or do we want to hold off?

Kitty Hawk Town Council Minutes: March 7, 2016

Page 5

Pruitt: *I want to hold off and would like to hear more about it. I have some concerns, especially in my line of work.*

McClean: *I don't think we should move immediately. I think a lot more needs to be worked out before we can feel comfortable making a decision.*

Perry: *We need something in writing to say this is where you go and no further.*

Garriss: *Very interesting and intriguing but I think we need more information.*

Alberg: *Thank you. Actually that is what I wanted more than any endorsement because I certainly would not come in front of you asking you to endorse something based on eight minutes of my presentation. The way this will play out is this scoping process will end on the 18th of March and then NOAA will go back, armed with the information that we have heard, and believe me we have heard loud and clear the concerns about creeping jurisdiction and the history with other federal agencies down here. We are very sensitive to that.*

I think one of the things that I am most proud about working with the Office of National Sanctuaries is that what we do starts at the grass roots, before the bureaucracy gets in, which is the whole reason we have these public scoping meetings. We will go back over the course of the next year to a year and a half and develop what we believe is a preferred alternative to the things we have heard. Develop a draft management plan, develop a draft environmental impact statement and then start the public process all over again. When we do that in a year or so the public and individuals like you will have the ability to comment on a real honest-to-goodness proposal.

What I would love, as you have indicated tonight, is that during the next twelve to eighteen months we have an opportunity to hear from you. Specifically ways or things that would be of a concern to the Town and more importantly to help identify some opportunities.

One of the alternatives, within NOAA and the sanctuary program on this expansion, is to do nothing. We may at the end of this come back and do nothing. But hearing ways that we can continue to partner with you and to do good things is always helpful down the road regardless of how this turns out. So having that line of communication open is terrific and I thank you. I will make sure we get contact information to you and hope by whatever mechanism we can continue a dialogue. We would appreciate that.

Council thanked Mr. Alberg for his presentation.

5. PUBLIC COMMENT

There were no speakers during public comment.

Kitty Hawk Town Council Minutes: March 7, 2016

Page 6

6. CONSENT AGENDA

a.) **Approval of February 1, 2016 Council Minutes.** *(An affirmative vote for the consent agenda will approve these minutes.)*

b.) **Resolution Approving the Kitty Hawk Fire District Boundaries.** During the recent ISO inspection of the fire department it was determined this resolution outlining the fire district boundaries is required. *(An affirmative vote of the consent agenda will approve this resolution.)*

c.) **Severe Weather Preparedness & Flood Safety Week Resolution.** This resolution declares the week of March 6-12, 2016 as Severe Weather Preparedness & Flood Safety Week. *(An affirmative vote of the consent agenda will approve this resolution.)*

d.) **iWorQ Permit Management.** The Planning and Inspections Department would like to change the software they use for permits. The current software will need an expensive upgrade soon and costs approximately \$6,000 annually. The proposed software is \$2,000 annually after an initial \$1,000 startup fee. Staff is seeking approval to sign the service agreement with iWorQ Systems. No money will be owed to them until July 1st but with approval now they can begin work building the system. *(An affirmative vote of the consent agenda will approve this request.)*

e.) **Government Education Access Channels 2016-17 Fiscal Year Budget.** The GEAC Committee is requesting Town Council approval of their budget in the amount of \$375,808. *(An affirmative vote of the consent agenda will approve this budget.)*

f.) **Amendment to the Town Code. Chapter 4-Animals.** Delete Section 4-5. The police chief is recommending deleting this section that prohibits hunting or discharging firearms in the area south of Kitty Hawk Road and the extension thereof to the mean high-water mark of the Atlantic Ocean, east of Toler ditch and Kitty Hawk Bay south to the Kill Devil Hills town limits. The Town Code Section 18-6, Prohibition of firearms discharge is adequate to regulate the use of firearms and hunting regulations within the entire Town. *(An affirmative vote of the consent agenda will approve this ordinance amendment.)* **(Ordinance No. 16-01)**

Councilwoman McClean moved to approve the consent agenda. Councilman Pruitt seconded the motion and it was approved unanimously, 4-0.

7. ITEMS REMOVED FROM THE CONSENT AGENDA

There were no items removed from the consent agenda.

8. PUBLIC HEARINGS

a.) **Conditional Use Permit. Application for a Conditional Use Permit to allow a fitness center at 500 Sand Dune Drive, Unit E.**

MPT Garriss made a motion to go into public hearing. The motion was seconded by Councilwoman McClean and unanimously approved, 4-0.

Kitty Hawk Town Council Minutes: March 7, 2016

Page 7

Town Clerk Morris provided the oath to Planner Testerman. He then reviewed the staff report below.

Staff Report: Proposal

The applicant is requesting approval of a conditional use permit to locate a fitness center in the existing building on the subject property. Fitness centers are permitted in the BC-2 district with a conditional use permit, provided that:

- a) No promotional sales or services shall be visible from the outside of the building.
- b) The building shall be designed so that any noise will be contained within the building.
- c) All lighting shall meet section 42-515
- d) Any outdoor uses or facilities shall be set back or buffered so that no noise will go beyond the property.
- e) Massage personnel shall be licensed by the state.

The applicant proposes a personal training facility that would dedicate approximately 1,250 square feet to be a training area that will be used for strength training equipment, including machines, free weights and open space. The applicant states that training is frequently done one on one, occasionally up to four clients will be trained at the same time. The business will see its peak usage in the morning hours, before clients go to work. Some usage in the early afternoon is anticipated as well.

Proposed Conditional Uses

42-250(c)31 Fitness center, provided the above mentioned requirements.

Background Information

The subject property is presently zoned Beach Commercial (BC-2) and is a multi-tenant commercial use. The property has approximately 180 feet of frontage on Sand Dune Drive and 175 feet of frontage on Worthington Lane. In total, the lot is 74,680.8 square feet (1.72acre) in area.

Directly abutting the subject property to the east are four properties, all zoned BC-2 and include the former Pizzazz Pizza, a mixed use (commercial/residential) building, and R.E. Michel. To the west of the subject property are two parcels that are part of the multi-family residential development, Sandpiper Cay, zoned BR-2. Across Worthington Lane to the north are single family residences zoned BR-1, and across Sand Dune Drive to the south are additional units in the multi-family development, zoned BR-2.

Staff Analysis

Proposed Uses: Fitness Center. This use presently permitted as conditional uses in the Beach Commercial (BC-2) district.

Lot Area: The subject parcel is 74,680.8 square feet (1.72acre).

Lot Coverage: No lot coverage changes are proposed as a part of the application. Current lot coverage (including the proposed buildings, sidewalks, parking, access drives, and drive aisles) is 42,514 square feet (57%). The proposal is compliant with the maximum lot coverage requirement of 60% for the BC-2 district.

Building Height: The maximum height in the BC-2 district is thirty-five feet (35') from the existing grade to the peak of the roof. No building height changes are proposed and the current building is compliant.

Building Setbacks: Per the table below, it appears that all of the buildings will comply with the Town's current minimum building setback standards for the BC-2 district.

<u>Setback</u>	<u>Existing</u>	<u>Required</u>
Front	72 feet	15 feet
Rear	55 feet	20 feet
Sides	25 feet (north)	10 feet
	50 feet (south)	10 feet

Kitty Hawk Town Council Minutes: March 7, 2016

Page 8

Access: The subject property currently contains one 22 foot wide ingress/egress drive off of Sand Dunes Drive, and a second 22 foot wide ingress/egress drive off of Worthington Lane. No changes are proposed for the access to the property.

Parking: Parking Calculations are as follows:

Parking: The parking lot for the development was approved and built considering the entire building, under the retail requirements of 1 space per 350 square feet and 1 space per 2 employees. This came to a total of 72 spaces required. The current uses in the building include Auto Man vehicle repair, Trademark Heating and Cooling, SNA Restoration Company and the Black Pelican office.

For the proposed use parking requirements are as follows:

<u>Parking Calculations</u>	<u>Ratio</u>	<u># Required Spaces</u>
Fitness Center-one space per 150 sq. ft. of gross floor area	1250 sq.ft./150	8.3
TOTAL (Minimum Parking Required)		9 spaces required

With a total of 72 parking spaces on site, ADA standards require a minimum of three (3) handicapped accessible parking space. The owner of the property has verified that there are four ADA compliant spaces on site.

Buffers: The Zoning Ordinance requires buffers between commercial zones and abutting residential zones. The original site plan approval was approved with a Type A & B Buffer where the subject property abuts the BR-2 zone to the west (rear of the building), and Type C along the roadways of Sand Dune Drive and Worthington Lane. No additional buffers are required.

Waste Management: It appears that the property is currently served by two bulk containers, one being located at the northern end, and one at the southern end of the property.

Lighting: If any changes to the current exterior lighting occur, a lighting plan for the site must be submitted and approved by the Planning & Inspections Department. Such plan must comply with the standards of Section 42-515 of the Zoning Ordinance.

Signs: All signs to go on site will need to be submitted to the Planning & Inspections Department, and a sign permit will be required.

Stormwater Management: No land disturbance is occurring, as the site is using all existing features.

Flood Zone: The entire subject property is located within an X flood zone, which means that the building is not required to meet any particular flood elevations.

Land Use Plan

The Town of Kitty Hawk's adopted CAMA Land Use Plan designates the property as a "Commercial, Shopping, and Working Area" on the future land use map.

The following policies and objectives relevant to this application are stated in the CAMA Land Use Plan:

POLICY 4a: Kitty Hawk, through its zoning ordinance, will continue to direct the placement of commercial development in areas zoned for such activities.

POLICY 4e: Kitty Hawk will review and analyze development and redevelopment proposals for consistency with the future land use map included in this land use plan.

Kitty Hawk Town Council Minutes: March 7, 2016
Page 9

OBJECTIVE 16a: Monitor and consider redevelopment proposals for consistency with stated Town land use and development goals.

Conditional Use Findings

Per the standards of Section 42-99(b)(7), in order to approve this application, the Town Council must make findings that the proposed conditional uses:

a. does not materially endanger the public health or safety,

There is no evidence to suggest that allowing the use of this building for a fitness center would endanger public health or safety.

b. does meet all required conditions and specifications,

The existing building was constructed to meet all conditions and specifications, the new proposal includes no changes and will also meet all requirements.

c. will not substantially injure the value of adjoining property or be a public nuisance, and

There is no evidence to suggest that the proposed use would injure the value of adjoining property, or be a public nuisance.

d. will be in harmony with the area in which it is located and be in general conformity with the comprehensive plan.

The reuse is compatible with the surrounding zoning and commercial land uses.

Per stated policies in the Town's adopted land use plan, the reuse of this business will be located on existing, commercially zoned properties.

Planning Board Recommendation

At its January 14, 2016 meeting, the Planning Board unanimously recommended approval of the conditional use permit to allow a fitness center to be located at 500 Sand Dune Dr.

After no one came forward to speak during the public hearing and hearing no questions or comments from council, **MPT Garriss made a motion to go back into regular session. Councilwoman McClean seconded and it passed unanimously 4-0.**

MPT Garriss made a motion to grant approval of the proposed Conditional Use Permit to allow the establishment of a personal training studio at 500 Sand Dune Drive. The Town Council finds that the proposed use is consistent with the Town's adopted CAMA Land Use Plan and finds this to be in the best public interest. Councilman Pruitt seconded and it passed unanimously, 4-0.

9. PLANNING

a.) Atlantic Dentistry. Application is for site modifications to the Sweet Frog's and Atlantic Dentistry sites at 3700 and 3704 North Croatan Highway.

Planner Testerman reviewed the following staff report.

Proposal

The applicant is requesting site plan approval to amend a previously approved site plan. Most recently, approval was granted to demolish the southernmost building on the subject property, rebuild it in the same footprint, and construct a 458 square foot addition. Demolition on the building has already occurred.

Kitty Hawk Town Council Minutes: March 7, 2016

Page 10

As you may be aware, the most recent version of the site plan that the Planning Board reviewed included site connections between Atlantic Dentistry and the properties to the north and south. An access easement was to be required, however the easement language was never able to be agreed upon by all three parties. As a result, that version of the site plan never made it before Town Council. The applicant has come to an agreement with the property owner to the south (Sweet Frogs) to move forward with the project, but the project no longer involves the property to the north (Harbour Bay).

We are currently reviewing a site plan that includes improvements on Atlantic Dentistry and Sweet Frogs. With the exception of the northern connection, the site plan remains virtually the same as it was last reviewed. An existing curb cut onto N. Croatan Hwy will be closed, and a new ingress/egress point will be established on Ascension Dr. We are reviewing the overall site plan depicted on Sheet 1 of the attached site plan. For ease of understanding the project, the applicant has provided multiple sheets showing the different phases of construction. A brief description of the sheets is as follows:

Sheet 1: Master plan- shows all final improvements, including access to Ascension Dr., paved parking behind Sweet Frogs, paved parking behind Atlantic Dentistry, and common wall building additions of Sweet Frogs and Atlantic Dentistry.

Sheet 2: Existing conditions- Shows what is currently on the ground, including the footprint of the recently demolished southern building on the Atlantic Dentistry site.

Sheet 3: Demolition plan, Phase I – Part of the first phase of construction will include removing the areas of concrete and asphalt as indicated by the red cross hatch. It also depicts clearing of some of the vegetation to the rear of Sweet Frogs to make way for the temporary access drive.

Sheet 4: Site improvements, Phase I – Shows further improvements that are to be part of phase I of construction. This page includes the installation of the temporary access drive to Ascension Dr. Also included is areas of new asphalt in the existing parking area, giving two new parking spaces and widening the drive aisle at the north end of the property, as well as the access point on N. Croatan Hwy. This sheet also includes the construction of the Atlantic Dentistry addition, and a 216 sq ft addition to Sweet Frogs, creating a common wall, thus satisfying the setback requirements of the district.

Sheet 5: Demolition plan, Phase II – Gravel to be removed as indicated by red cross hatch, and additional vegetation to be removed from Sweet Frogs to provide for the new septic drainfield and stormwater management (perimeter vegetation is to remain in place).

Sheet 6: Site improvements, Phase II – Existing gravel parking in the rear of Atlantic Dentistry to be paved

Sheet 7: Site improvements, Phase III- Septic drainfield for Sweet Frogs to be relocated, and install stormwater management measures. Temporary gravel access drive to be expanded to parking spaces and a drive aisle.

Sheet 8: Site improvements, Phase IV – Parking area and gravel drive behind Sweet Frogs to be paved, small area of gravel to be removed, and 614 sq. ft. addition between Sweet Frogs and Atlantic Dentistry to be constructed.

It should be noted that as a site plan review, we are simply reviewing to ensure that the proposal meets all requirements of the zoning ordinance. Staff review indicates that all zoning requirements are satisfied.

Background Information

The subject property is 35,563 square feet (0.86 acre) in size and presently zoned Beach Commercial (BC-1). The property presently contains two buildings: Atlantic Dentistry office/apartment building (2,650 square feet); and a retail/service building (1,522 square feet) containing the Naked Dog grooming/training business to the north. A small office building was recently demolished at the southern portion of the property.

Kitty Hawk Town Council Minutes: March 7, 2016
Page 11

A common drive aisle connects the subject property with the adjoining property to the south. The property to the south is zoned BC-1 and contains the Sweet Frog yogurt shop. The Sweet Frog property is 25,000 square feet (0.57 acre) in size, and currently contains a single story, 2,117 sq. ft. building. The abutting property to the north is also zoned BC-1 and contains the Harbour Bay South shopping center (Trio, Diamonds & Dunes, etc.). The adjoining property to the west is zoned BC-1 and contains the newly constructed Evans & Meads law office. Across Croatan Highway to the east are several single-family residences on properties zoned Beach Residential (BR-1).

Recently, in discussions with the applicant, it has been disclosed that the paving of the temporary access drive is now proposed to be done as a part of the Phase I site improvements, satisfying the Planning Board's recommendation.

Additionally, with regard to the removal of one of the curb cuts on N. Croatan Highway, Sec. 42-516(a) of the zoning ordinance states that it is the intent of the chapter to keep driveways along U.S. 158 to a minimum due to traffic hazard involved in frequent entrances and exits from a major thoroughfare.

Staff Analysis

Proposed Use: Existing dental office on the Atlantic Dentistry property.

Lot Area: The subject parcels are 35,563 square feet (0.86 acre) in size (Atlantic Dentistry) and 25,000 square feet (Sweet Frog's). The size of the properties exceed the minimum lot size of 15,000 square feet for commercial development in the BC-1 district.

Lot Coverage: The BC-1 district has a maximum lot coverage requirement of 60%. After all proposed improvements have been made, the lot coverage for the Atlantic Dentistry site will be 58.37% (20,637 sq. ft.). Proposed lot coverage on the Sweet Frog's site is 49.4% (12,349.81 sq. ft.).

Open Space: As proposed, the Atlantic Dentistry site would have 41.6% open space, Sweet Frog's has approximately 50.6% open space, which both meet the minimum requirement of 35%.

Building Height: The maximum height in the BC-1 district is thirty-five feet (35') from the existing grade to the peak of the roof. The proposed additions and new building will only be one story in height, well under the maximum height standards.

Building Setbacks: As previously mentioned, with the proposed expansion to the south of Atlantic Dentistry and to the north for Sweet Frog's, creating a common wall, no side yard is required along that property line. No other improvements will be decrease or otherwise change any of the other existing building setbacks on the site. The building setbacks are as follows:

Atlantic Dentistry:

	Existing/Proposed Setbacks	Required Setbacks
Front	50 feet	15 feet
Rear	62 feet	20 feet
Sides	17 feet (north) 0 feet (south)	10 feet 10 feet, or 0 with a common wall

Sweet Frog's:

	Existing/Proposed Setbacks	Required Setbacks
Front	55 feet	15 feet
Rear	139 feet	20 feet
Sides	0 feet (north) 32 feet (south)	10 feet, or 0 with a common wall 10 feet

Kitty Hawk Town Council Minutes: March 7, 2016

Page 12

All buildings on the site, and proposed additions presently comply with the minimum building setback requirements.

Access: The subject property would continue to have ingress and egress from one of the two existing drives off of N. Croatan Highway. The southern access drive is proposed to be closed. There are minor changes to the width of the northern access drive and turning radius of the southern access drive to bring these driveways into compliance and better accommodate emergency vehicles.

The property also has a direct driveway connection with the Sweet Frog property directly to the south. This connection allows customers to enter and exit more safely via Ascension Drive. The proposal will also create a driveway connection in the rear of the Sweet Frog property. The newly proposed drive aisle behind Sweet Frog's is shown on the plan to be 22' in width.

Parking: The minimum number of parking spaces are calculated below:

Atlantic Dentistry

<u>Parking Calculations</u>	<u>Size</u>	<u># Required Spaces</u>
North Building (retail)	1,519 s.f./2 employees	5.34 spaces
South Building (clinic)	3 doctors/10 employees	25 spaces
TOTAL		30.34 spaces

**** This figures rounds up to a requirement of 31 parking spaces on the site.**

With a total of 31 parking spaces being provided, the proposed parking area meets the Town's minimum standards. The site plan shows sixteen (16) parking spaces in the paved parking area at the front of the property and fifteen (15) parking spaces within the gravel parking area to the rear of the buildings. The gravel parking surface does not comply with the Town's current standards, but is an existing situation on the subject property.

ADA standards require a minimum of two (2) handicapped accessible parking spaces to serve this property. In compliance with this standard, two ADA accessible parking spaces are proposed in front of the southern building and proposed addition, a third is located in front of the northern building.

Sweet Frogs

<u>Parking Calculations</u>	<u>Size</u>	<u># Required Spaces</u>
South Building (refreshment)	2,117 sq. ft./1,000*8	16.9 spaces
North Building (office)	830 sq. ft./2 employees	3.77 spaces
TOTAL		20.67 spaces

**** This figures rounds up to a requirement of 21 parking spaces on the site.**

The Sweet Frog's proposal provides 23 parking spaces, including 1 handicapped space, which meets ADA requirements.

Buffer: As all of the abutting properties are both zoned and used commercially, there is no buffer requirement for the subject property.

Waste Management: Atlantic Dentistry is served by a commercial dumpster located along the northern boundary of the property. Sweet Frog's is currently served by one dumpster that is being relocated to the south western portion of the property.

Lighting: No new site lighting has been proposed as part of the expansion project. Should new lighting be desired, a lighting plan would be reviewed administratively.

Signs: Stop signs will be erected where necessary to identify the three way stop. Otherwise, no additional signs are being proposed as part of the project.

Kitty Hawk Town Council Minutes: March 7, 2016

Page 13

Wastewater Disposal: Wastewater will be handled through onsite septic systems. Approval from the Dare County Environmental Health Department for the proposed additions will be required.

Flood Zone: The locations of the buildings on the properties, as well as the proposed buildings/additions are presently located entirely within an X flood zone, which means that the additions are not required to meet any particular flood elevation.

Land Use Plan

The Town of Kitty Hawk's adopted CAMA Land Use Plan designates the subject property as a "Commercial, Shopping, and Working Area" on the future land use map.

Objective 23m of the Land Use Plan encourages inter-parcel connections between commercial lots adjoining US 158.

Planning Board Recommendation

At its February 11, 2016 meeting the Planning Board unanimously recommended approval of the proposed site plan for a connecting addition to the existing Atlantic Dentistry office building at 3704 N. Croatan Highway and Sweet Frogs at 3700 N. Croatan Hwy, with the condition that the temporary access drive to the rear of Sweet Frog's be paved as a part of Phase I construction, or a performance bond be issued to ensure the paving of the access drive.

Perry: *They are taking two buildings and combining them. Explain to the public that the code allows this in a kind of strip mall type configuration.*

Testerman: *It is worded in the BC-1 District that there is a 10 foot side yard setback, or a zero foot side yard setback, if there is a common wall. The addition would create that common wall. Once they have a tenant lined up for the addition they are going to fill it in with construction of the rear part of the building. That little connector satisfies the common wall requirement to meet the setback requirements.*

Perry: *And this is a two stage process. The dentistry will build this year and the Sweet Frog extension will happen in the fall after the season?*

Testerman: *Right. The initial part that creates the common wall is going to happen with part of Phase I as the Atlantic Dentistry. Then the rear part of the addition will be towards the fall as soon as a tenant is lined up.*

Perry: *I never quite understood what the easement was all about. There is just going to be a driveway now on the north end right at the property line. Is that what's happening?*

Testerman: *Right. And that is kind of how it is currently. The drive aisle almost butts up right to the asphalt of the property to the north. The site plan does not show any changes to that section. The easement was going to be in place between the two properties to make sure down the line customers can always use an access point and not get cut off from going out on Ascension. That way it ensured they will be able to have that traffic flow.*

Michael: *Rob did you get a revised easement and party wall agreement?*

Kitty Hawk Town Council Minutes: March 7, 2016
Page 14

Testerman: *I have not gotten a revised one yet. I think it should be a condition that before building permits are issued we have a revised agreement.*

Perry: *You are satisfied with that?*

Michael: *Yes.*

McClean: *There was also, in the planning board minutes, something about if DOT was needed for the access onto Ascension. Isn't that a Kitty Hawk Street? Do we need to grant access at that point?*

Michael: *If you approve the site plan you are approving that curb cut.*

Councilman Pruitt made motion to grant approval of this site plan amendment for the Atlantic Dentistry at 3704 North Croatan Highway and Sweet Frog's at 3700 North Croatan Highway with the condition that the temporary access drive shown on the plan is paved as part of Phase I site improvements. Attorney Michael added and that the easement and party wall agreement be in a form satisfactory to the Town. Councilman Pruitt added that to his motion and MPT Garriss seconded. The motion passed unanimously, 4-0.

b.) Call for Public Hearing. Conditional Use Permit application to allow an indoor bounce house at 3809 North Croatan Highway. The public hearing is scheduled for April 4, 2016.

MPT Garriss made a motion to set a public hearing at the Town Council meeting on April 4, 2016 to consider a Conditional Use Permit to allow a bounce house at 3809 North Croatan Highway. Councilwoman McClean seconded the motion and it passed unanimously 4-0.

c.) Call for Public Hearing. Text amendment to modify the zoning ordinance with regards to placement of mobile homes. The public hearing is scheduled for April 4, 2016.

Councilman Pruitt made a motion to set a public hearing at the Town Council meeting on April 4, 2016 to consider text amendments to revise the language regarding mobile home placement in Kitty Hawk. Councilwoman McClean seconded and the motion passed unanimously 4-0.

10. NEW BUSINESS

a.) Amendment to the Town Code. Chapter 18-Miscellaneous Provisions and Offenses. Section 18-2-Noise Control. This proposed amendment adds some measurable noise levels allowing it to be more enforceable and resolves the constitutionality of the Town's current ordinance.

Kitty Hawk Town Council Minutes: March 7, 2016
Page 15

Testerman: *Some time ago the town was advised that our current noise ordinance is unconstitutional. By adding some measurable noise levels it allows our ordinance to be more enforceable and resolves the constitutionality of it as well.*

The proposed ordinance uses A-weighted decibels shown as dB(A). The measurements have been adjusted to attempt to take into account varying sensitivity of the human ear to different frequencies of sound. The main effect of the adjustment is that low and very high frequencies are getting less weight than on a standard decibel scale. Many of the regulatory noise limits are specified in terms of dB(A) based on the belief that it is better correlated with the relative risk of noise induced hearing loss. Also in the staff report are some of the common sounds that you will hear on a day to day basis and what kind of decibel levels they carry. A chart is also provided showing a larger scale of the different noise levels. If we go this route a decibel reader will need to be purchased.

Perry: *We really do not have a choice. There are a lot of noise complaints. Does this address barking dogs or is it just people and music and that sort of thing?*

Johnson: *People and music. This will treat everybody fairly with the noise so we do not have any more issues with the restaurants and the music. The instrument I will buy is also used by the adjoining departments so if ours does not happen to work for whatever reason we can use theirs.*

Pruitt: *Is this mainly going to be used after 10 o'clock?*

Johnson: *Not necessarily.*

Pruitt: *So it can be 8 in the morning?*

Johnson: *We have had that issue also. The officer on duty will have it in his car. We are not looking to issue citations and charge people we just want everybody to comply and it's mainly for the people that complain the most. We can show that it does not exceed limits.*

Perry: *And it could be during the day.*

Pruitt: *I was just making sure this was not just going to be at night because I realize people can make some noise on vacation at various times.*

Perry: *Not just vacationers. You go back in the village and household to household it can be pretty noisy. This will give them all a level playing field and it's probably been due for a long time.*

Councilwoman McClean moved to adopt the proposed text amendment to Section 18-2 of the Kitty Hawk Town Code amending the Noise ordinance. The Town Council finds that the proposed text amendment is consistent with the Town's adopted CAMA Land Use Plan and finds this amendment to be in the public interest. MPT Garriss seconded the motion and it passed unanimously, 4-0. (Ordinance No. 16-02)

b.) Amendment to the Town Code. Chapter 18-Miscellaneous Provisions and Offenses. Add Section 18-20-Open Air Camping. This proposed amendment will prohibit someone from sleeping/camping on the beach, public land or in their vehicle at night.

Chief Johnson explained the Town is having an increase in people sleeping out in the open air or camping. Police Officers encountered a gentleman off of Herbert Perry Road just behind the fire department, in the Walmart area and Kitty Hawk Woods. There is currently nothing that prohibits someone from going out on the beach and erecting a tent and sleeping out there anytime they want.

Garriss: *I think this is also something you've needed for while right?*

Johnson: *Yes sir.*

McClellan: *This doesn't stop some children who live in a house from having their friends over and having a sleep out in a tent does it?*

Johnson: *That is totally fine.*

Perry: *They are kind of being run from the other towns and migrating ... and we are the last one without an ordinance. It gives them something to work with. Maybe it will help put them in a place where they can get some assistance.*

Johnson: *The first thing, when we encounter them, is ask if they need help. We try to offer them some assistance. Getting them to a place and giving them a ride.*

MPT Garriss a motion to approve this amendment to Town Code Chapter 18, Miscellaneous Provisions and Offenses by adding Section 18-20 Open Air Camping. The proposed amendment will prohibit someone from sleeping or camping on the beach, public land or in their vehicle at night. Councilwoman McClellan seconded and the vote was unanimous, 4-0. (Ordinance No. 16-03)

c.) Amendment to the Town Code. Chapter 20-Motor Vehicles and Traffic. Sections 20-51, 20-52, 20-53, 20-54, 20-55, 20-56, 20-57, 20-58 and 20-59. This amendment allows for a civil penalty for parking violations as set by the Town's adopted Fee Schedule.

Chief Johnson reviewed with council the difficulties police officers have with parking violations and stated it is increasing every year. The officers try and find the owners before a vehicle is towed. Issuing the owner or driver a State citation is costly (\$238) and this ordinance amendment is suggesting \$50 for any handicapped parking violation and \$25 for all other parking violations.

Perry: This came to us once before and we were of the understanding that if you issued the ticket it would go to the schools. Also, I don't think we understood that you had to wait for somebody to give them the citation.

Kitty Hawk Town Council Minutes: March 7, 2016
Page 17

My question is \$50 for parking in a handicapped spot enough? I think it ought to be a little higher. What do you think?

Pruitt: *What is the State?*

Johnson: *It is around \$400.*

McClean: *In the case of someone who has the handicapped placard and just forgot to put it out?*

Johnson: *Bring it to me*

McClean: *Everything will be a wash?*

Johnson: *Yes, it will be a wash But a lot of people use other people's placards. Most cars, when you run the registration plate, will show whether it has a placard attached to the vehicle and then the officer will just move on.*

Mayor Perry moved to approve the amendment to the Town Code, Chapter 20, Motor Vehicles and traffic, Sections 20-51, 20-52, 20-53, 20-54, 20-55, 20-56, 20-57, 20-58 and 20-59 and this amendment allows for a civil penalty for parking violations as set by the Town's adopted Fee Schedule. MPT Garriss seconded the motion it was approved unanimously, 4-0. (Ordinance No. 16-04)

d.) Amendment to the Town Fee Schedule. If the amendment to Town Code Chapter 20-Motor Vehicles and Traffic is adopted (agenda item 10 c), it is recommended the civil penalty for a handicapped parking violation be \$50 and all other adopted violations be \$25.

Mayor Perry made a motion to approve an amendment to the Town Fee Schedule to add the civil penalty for a handicapped parking violation is \$100 and all other adopted violations are \$25. Councilman Pruitt seconded and the motion passed unanimously, 4-0.

Chief Johnson thanked Clerk Morris and Attorney Michael for their assistance in editing all of the ordinances.

11. REPORTS OF GENERAL COMMENTS FROM TOWN MANAGER

Finance Officer and Street Paving: Manager Stewart announced he will introduce newly hired Finance Officer Liliana Noble at the April meeting and West Balchen, West Wilkins and sections of Byrd Street have been resurfaced.

12. REPORTS OR GENERAL COMMENTS FROM TOWN ATTORNEY

Kitty Hawk Town Council Minutes: March 7, 2016
Page 18

a.) **Update on Easements for Beach Nourishment:** Attorney Michael reported there are 27 easements needed as of this date. Mayor Perry noted he looked through the information Town staff has and it seems about half of the easements needed are on empty lots.

13. REPORTS OR GENERAL COMMENTS FROM TOWN COUNCIL

Thank You to Staff: Council thanked the police chief and attorney for getting the ordinances together for adoption.

Rebid for Beach Nourishment: Mayor Perry announced the opening of the rebids is tomorrow at two o'clock. He plans to attend and needs to know what council would like for him to do if Duck, Kill Devil Hills and the county accept the bid. Should he include Kitty Hawk?

Council decided they would like to know the amount of the bids before committing to the project.

Mayor Perry said he would telephone each of the councilmembers.

Town Clerk: Mayor Perry said he was informed tonight that Clerk Morris has just celebrated her 29th year of employment with the Town. He commented she must have seen a lot of changes and Lynn replied, yes sir, and lightheartedly added and many things have stayed the same! Council thanked Lynn for her service.

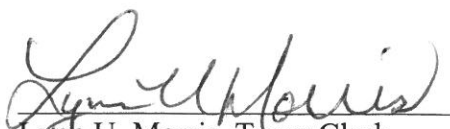
14. PUBLIC COMMENT

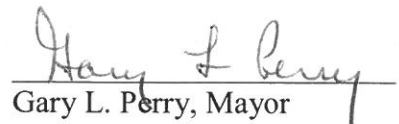
There were no public comments.

15. ADJOURN

MPT Garriss made a motion to adjourn. Councilman Pruitt seconded and the motion carried 4-0. Time was 6:59 p.m.

These minutes were approved at the April 4, 2016 council meeting.


Lynn U. Morris, Town Clerk


Gary L. Perry, Mayor